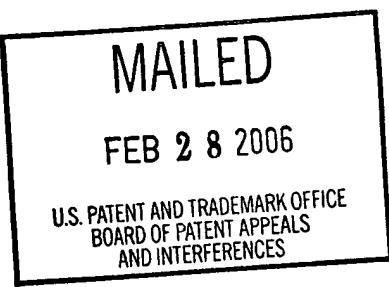


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES



Ex parte HIDENARI TANAKA,  
HIROSHI MURAKAMI, TATUHIKO HAYASHI,  
YOSHIHARU YAMADA, KAZUTOSHI TAKASE,  
TETSUKAZU NAKAMURA and AKIRA ISHIHARA

Application No. 09/209,454

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences (BPAI) on January 30, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The examiner mailed an Examiner's Answer on June 6, 2005. It appears that initially when drafting the answer, the examiner unintentionally left out some the required headings. Rather than correcting the errors by retyping and reprinting the errors, the examiner has manually penciled/inked in the missing headings and drew an arrow to indicate where the headings should be positioned, which may or may not have been [be] acceptable. In any event, the heading "(8) Prior Art of Record" does not fully comply with the heading as set forth under 37 CFR § 41.37 (c). Specifically, the heading (8) under the new rules as per 37 CFR § 41.37 (c) should be "(8) Evidence"

*Relied Upon*" and should list "the evidence relied on(e-g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages". In the instant case the examiner should list the patents to Pauly et al., Fay, Eberhardt and the "Cashing in on quicker deliver times", article as they are relied upon in his § 103 rejections. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to issue a revised Examiner's Answer correcting the errors noted above, and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW  
Program and Resource Administrator  
(571) 272-9797

DMS/vsh

Application No. 09/209,454

cc: LEYDIG, VOIT & MAYER, LTD  
700 THIRTEENTH ST. NW  
SUITE 300  
WASHINGTON, DC 20005-3960